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Filing date: **05/21/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92042082
Party	Defendant International Gold Star Trading Corp. International Gold Star Trading Corp. 570 Smith Street Brooklyn, NY 11231
Correspondence Address	Roger S. Thompson Cohen, Pontain, Lieberman & Pavane 551 Fifth Avenue New York, NY 10176 UNITED STATES
Submission	Other Motions/Papers
Filer's Name	Roger S. Thompson
Filer's e-mail	rthompson@cplplaw.com, docket@cplplaw.com
Signature	/Roger S. Thompson/
Date	05/21/2007
Attachments	052107 Notice of Service of Discovery Responses.pdf (3 pages)(264023 bytes) Exhibit A Registrants Responses to Petitioners Interrogatories.pdf (21 pages)(669292 bytes) Exhibit B Registrants Response to Petitioners Requests for Production.pdf (18 pages)(623232 bytes) Exhibit C Registrants Responses to Petitioners Requests for Admissions.pdf (11 pages)(288111 bytes)

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FOUR SEASONS DAIRY, INC.,	:	Cancellation No. 92/042,082
	:	
Petitioner,	:	
	:	
	:	Mark: BABUSHKA'S RECIPE
v.	:	
	:	
	:	Reg. No. 2,479,287
INTERNATIONAL GOLD STAR	:	
TRADING CORP.,	:	
	:	
Registrant.	:	
	:	
	-X	

May 21, 2007
Date of Signature

In Registrant's opposition papers, Registrant undertook to provide responses to the requested discovery by today, May 21, 2007. Registrant has today mailed those responses to counsel for Petitioner. Enclosed are copies of the Responses to

Interrogatories (Exh. A); Requests for Production (Exh. B) and Requests for Admissions (Exh. C).

In light of the service of the enclosed responses, it is respectfully submitted that Petitioner's Motion to Compel is moot. Having possession of Registrant's Responses to Petitioner's Requests for Admissions, the Board may now be in better position to evaluate Registrant's request to be relieved of default with respect thereto.

Early and favorable action is therefore respectfully solicited.

Respectfully submitted,
COHEN, PONTANI, LIEBERMAN & PAVANE

By



Roger S. Thompson
551 Fifth Avenue
New York, New York 10176
(212) 687-2770

Dated: May 21, 2007

*Attorneys for Registrant,
International Gold Star Trading Corp.*

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing Notice of Service of Discovery Responses, was served by first class mail, postage prepaid, on counsel for Petitioner, addressed as follows:

Samuel Friedman, Esq.
225 Broadway, Suite 1804
New York, New York 10007



Roger S. Thompson
Counsel for Registrant

May 21, 2007
Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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	:	
Registrant.	:	
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REGISTRANT'S RESPONSES TO PETITIONER'S INTERROGATORIES

Registrant, International Gold Star Trading Corp. ("Gold Star"), hereby responds to the Interrogatories propounded by Petitioner, Four Seasons Dairy, Inc.

General Objections

1. Registrant objects to the Interrogatories to the extent that they seek the identification of documents and/or things subject to a claim of attorney-client privilege, attorney work product or any other immunity from discovery. Any such documents and/or things will not be produced.

2. Registrant objects to the Interrogatories to the extent that they seek the identification of documents and/or things that contain confidential information of Registrant, and shall produce such documents and/or things only in accordance with a Protective Order.

3. Registrant objects to the Interrogatories to the extent that they impose obligations beyond the scope of discovery permissible under the Federal Rules of Civil Procedure, Title 37 of the Code of Federal Regulations, the TBMP or other applicable authority.

4. Registrant objects to the Interrogatories to the extent that they seek identification of attorney-client privileged and/or attorney work product documents and/or things and/or information concerning same, which documents, things and/or information concern the conduct of this proceeding and were created after the filing of the Petition herein.

5. Registrant objects to the Interrogatories to the extent that they seek the identification of documents and/or things not within Registrant's possession, custody or control.

6. Registrant objects to the Interrogatories to the extent that they seek the identification of documents and/or things, and/or information not relevant to this action and/or not reasonably calculated to lead to the discovery of admissible evidence herein.

7. Registrant's responses are not admissions that the requested information is relevant, material or admissible and are not waivers of any rights or objections available to Registrant.

8. Registrant objects to the Interrogatories to the extent that they seek identification of entire documents that contain both relevant and irrelevant information and/or both information that is requested and information that is not requested and/or both information that is immune from discovery and information that is not so immune.

9. Registrant objects to the Interrogatories to the extent that they contain a phrase such as "[a]ll documents" or the like as being overly broad and unduly burdensome to the extent that they include, for example, documents which, although containing passing reference to identified subject matter, would not ordinarily be expected to contain such information and therefore could be found only through an unreasonably burdensome search.

10. Registrant objects to the Interrogatories to the extent that they are duplicative, overlapping or otherwise redundant as to subject matter of any other Interrogatory.

11. Registrant's responses are based upon its present knowledge, information and belief and are subject to correction, modification and/or supplementation based upon later-acquired facts or other information.

12. Registrant's responses indicating that documents and/or things will be produced in response to a specific Interrogatory are not representations or admissions that such documents and/or things are within the possession, custody or control of Registrant or that such documents and/or things exist. Instead, such responses indicate only that should any such documents and/or things be found within the possession, custody or control of Registrant after a reasonable search, they will be produced, subject to any applicable objections.

13. Any objection based upon a claim of attorney-client privilege, attorney work product or any other immunity from discovery is not a representation or admission that there are such requested documents and/or things are within the possession, custody or control of Registrant or that such documents and/or things exist. Such an objection indicates only that the scope of the Interrogatory may extend to information, documents and/or things not subject to discovery for one or more of these reasons and that, should such information, documents and/or things be found within the possession, custody or control of Registrant after a reasonable search, they will not be provided.

14. Registrant objects to the provision of information, documents and/or things that would violate any duty or obligation that Registrant has to a nonparty to this action.

These objections apply to all of Registrant's responses. Specific objections are made in response to a specific Interrogatory only because they are believed to be particularly applicable to the request. They are not to be construed as waivers of any other General Objection not specifically recited therein.

INTERROGATORIES

Interrogatory No. 1

Identify all officers and directors of Registrant from 1997 to the present.

Response:

Robert Pincow, President of Gold Star from 1997 to the present. He may be reached through Gold Star's counsel.

Interrogatory No. 2:

Describe in detail all past and existing relations, including contracts, agreements, licenses, assignments, or other relations, between Registrant and any third party, including predecessor companies, related, or affiliated companies, relating in any manner to Registrant's Mark.

Response:

Please see General Objection No. 2. Upon entry of a suitable Protective Order, Gold Star will respond to this Interrogatory.

Interrogatory No. 3:

With respect to Registrant's Mark, identify the person or persons most knowledgeable about Registrant's sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.

Response:

Galina Pincow, Vice-President of Gold Star. She may be reached through Gold Star's counsel.

Interrogatory No. 4:

Identify all state and federal registrations, applications for registration, and uses by Registrant of any mark which incorporates the terms BABUSHKA or BABUSHKINO, and for each such registration, application, and use, identify all documents relating thereto.

Response:

United States Trademark Registration No. 2,479,287, the subject of the instant cancellation; and United States Trademark Applications Ser. Nos. 78/333,758 and 78/978,140.

Relevant documents include the file histories of the applications and registration available from the United States Patent and trademark Office. Other documents may be protected by the attorney-client privilege, and/or be confidential. Reference is therefore made to General Objection Nos. 1 and 2.

Gold Star uses the mark BABUSHKA'S RECIPE mark on at least the following goods: Dairy products, excluding ice cream, ice milk and frozen yogurt; processed and marinated vegetables; meat products, namely, chicken bologna, veal bologna, beef bologna, pork bologna, pork salami, kielbasa, canned roast beef in gravy, meats other than chicken bologna, veal bologna, beef bologna, pork bologna, pork salami, kielbasa and canned roast beef in gravy; processed meats; edible oils and fats.

Interrogatory No. 5:

Identify all third-party state and federal registrations, applications for registration, and uses known to Registrant of any mark which incorporates the terms BABUSHKA or BABUSHKINO, and for each such registration, application, and use, identify all documents relating thereto.

Response:

Gold Star is not aware of any third-party application or use of any mark which incorporates the term "BABUSHKA". Gold Star is aware of a third party registration for the mark DECAF BABUSHKA BLEND, Reg. No. 2221853.

Gold Star is not aware of any third-party registration, application or use which incorporates the term BABUSHKINO.

Interrogatory No. 6:

Describe in detail the nature of Registrant's business or businesses, including the date on which Registrant first engaged in each such business.

Response:

Gold Star is an importer and distributor of fine foods, with an emphasis on the ethnic food market, especially Russian and Eastern European ethnic foods. It has been engaged in that business since at least 1988.

Interrogatory No. 7:

Identify and describe each of the goods and/or services on which Registrant intends to

use or has used Registrant's Mark, or any variation thereof

Response:

The goods with which Gold Star now uses the mark BABUSHKA'S RECIPE are listed in the above response to Interrogatory No. 4.

Gold Star intends to use the mark on at least the following goods: staple foods, namely, breads, cookies, cakes and pastries; candies; honey; salt; mustards; sauces; spices; mineral and aerated waters; fruit based beverages; non-alcoholic beverages, namely, carbonated beverages; vegetable juices; fruit drinks; fruit juices; fruits and vegetables; preserved, dried and cooked fruits and vegetables; jellies; jams; and side dishes made from processed fruits.

Interrogatory No. 8:

Identify all documents and set forth with specificity all facts regarding the selection by Registrant of Registrant's Mark including, without limitation, the circumstances and method by which Registrant adopted the terms BABUSHKA as a part of its mark.

Response:

Please see General Objections Nos. 1, 2 and 9. Upon entry of a suitable Protective Order, a response hereto will be provided.

Interrogatory No. 9:

Describe in detail the derivation of the terms BABUSHKA'S RECIPE as Registrant's Mark and identify all documents related thereto.

Response:

Please see General Objections Nos. 1, 2 and 9. Upon entry of a suitable Protective Order, a response hereto will be provided.

Interrogatory No. 10:

Identify all persons who were involved in, or participated in any way with, the decision to adopt, register and/or use the BABUSHKA'S RECIPE designation, and for each such person state his/her title and the role he/she played to adopt, register and/or use the BABUSHKA'S RECIPE designation.

Response:

Galina Pincow was the sole person involved with the initial selection of the mark BABUSKA'S RECIPE..

Interrogatory No. 11:

State whether any searches or investigations were conducted by Registrant, its attorneys, or any persons on its behalf to determine whether Registrant's Mark was available for use and/or registration, and, if so, identify each such search or investigation including the date such search or investigation was performed and the marks located in such search or investigation.

Response:

A search for relevant and responsive information is ongoing.

Interrogatory No. 12:

Identify all manufacturers or intended manufacturers of goods, and all promoters or intended promoters of services, bearing Registrant's Mark.

Response:

Please see General Objection No. 2. Upon entry of a suitable Protective Order, a response hereto will be provided.

Interrogatory No.. 13:

For each of the goods identified in Registrant's application, to register Registration's Mark. identify all documents supporting the date on which the mark was first used.

Response:

Please see General Objections No. 2 and 9. Upon entry of a suitable Protective Order, a response hereto will be provided.

Interrogatory No. 14:

Identify all documents and set forth with specificity all facts with respect to any instance where a person or entity has been confused, mistaken, and/or deceived as to whether any goods or services advertised or sold under Registrant's Mark are those of Petitioner, or are connected or associated with Petitioner, and for each such incident provide the date of such incident, the identity of the person or entity, and a detailed description of the circumstances of such confusion. mistake and/or deception.

Response:

Please see General Objections Nos. 2 and 9. While preserving these objections, Gold Star knows of no instance of actual confusion at this time.

Interrogatory No. 15:

Identify all documents and set forth with specificity the substance of each communication, oral or written, received by Registrant, which suggests, implies or infers that any of the products of Registrant sold under Registrant's Mark, or any mark that includes the terms BABUSHKA'S or BABUSHKINO, is a product of Petitioner or is affiliated, connected and/or associated with Petitioner, or which inquires as to whether there is or may be an affiliation, connection and/or association between Registrant and Petitioner, and identify any response(s) by Registrant to each such communication.

Response:

Please see General Objections Nos. 2 and 9. While preserving these objections, Gold Star knows of no responsive documents or communications at this time.

Interrogatory No. 16:

Identify all inquiries, investigations, surveys, evaluations and or studies conducted by Registrant or by anyone acting for or on its behalf with respect to Registrant's Mark, and marks owned or used by Registrant which incorporate the terms BABUSHKA'S or BABUSHKINO as an element of the mark, including the date conducted, the name, address and title of each person who conducted it, the purpose for which it was conducted, the

findings or conclusions made. and identify all documents which record, refer to, or relate to such inquiry, investigation. survey evaluation or study.

Response:

Please see General Objections No. 2 and 9. Upon entry of a suitable Protective Order, a response hereto will be provided.

Interrogatory No. 17:

Identify each different sign, display, point-of-sale display, label, hangtag, wrapper, container, package, advertisement, brochure, promotional material, and the like, known to Registrant which contains or bears Registrant's Mark or any variation thereof and which is intended to be used or has been used or disseminated at any time by Registrant.

Response:

Please see General Objection No. 2. Subject to that Objection, and without waiving that Objection, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Interrogatory.

Interrogatory No. 18:

Identify each person employed by Registrant, or each outside agency or agent retained by Registrant, who has been or now is responsible for the following activity with respect to any of the goods or services intended to be offered or rendered or actually offered or rendered under Registrant's Mark:

- a. marketing;
- b. advertising and promotion; and
- c. bookkeeping and accounting.

Response:

- a. Galina Pincow and James Pincow.
- b. Galina Pincow and James Pincow.
- c. Galina Pincow, Lyudmila Glants and Rima Vulikh

Interrogatory No. 19:

Has Registrant ever licensed or permitted or had negotiations to license or permit or otherwise granted rights to third parties to use Registrant's Mark or any mark including the terms BABUSHKA'S or BABUSHKINO as a component? If so, identify the party or parties who have received or sought such license or permission or other right, state the nature and extent of any such license or permitted use or right, given or negotiated. and identify and describe all documents comprising or containing any such license, permission, or other right or any agreement in respect to such mark.

Response:

No.

Interrogatory No. 20:

For each of the goods or services sold under Registrant's Mark, set forth the number of units and dollar amount of the annual sales of such goods or services, the dollar amount of

animal advertising expenditure on such goods or services, and the individual media through which such advertising took place, and the dollar amount of advertising through each such media: and identify documents sufficient to support your response to this interrogatory.

Response:

Please see General Objection No. 2. Upon entry of a suitable Protective Order, a response hereto will be provided.

Interrogatory No. 21:

State in detail the channels of trade in which Registrant's Mark is used and/or in which goods bearing Registrant's Mark are sold, including the geographic area by state, territory or possession in which Registrant's Mark is used and/or sold, the manner in which the goods or services reach the ultimate consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel, and identify documents sufficient to support your response to this interrogatory.

Response:

Please see General Objection No. 2. Upon entry of a suitable Protective Order, a response hereto will be provided.

Interrogatory No. 22:

Identify each statement or opinion obtained by or for Registrant regarding any issue in this cancellation proceeding including, but not limited to, whether the statement was oral

or in writing, and identify all documents which record, refer to, or relate to such statement or opinion

Response:

Please see General Objections Nos. 1 and 2. Upon entry of a suitable Protective Order, a response hereto will be provided.

Interrogatory No. 23:

Identify with specificity the marketing methods used in the advertising and/or sale of goods and/or services by or for Registrant under Registrant's Mark, including, without limitation, the names of television stations, radio stations. Internet web sites, newspapers, magazines, trade journals or periodicals, and/or retail establishments in which Registrant has advertised and intends to advertise its goods and/or services under Registrant's Mark, and identify documents sufficient to support your response to this interrogatory.

Response:

Catalogues, flyers, sell sheets and sales by company personnel. Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Interrogatory No. 24:

Identify the ordinary purchaser of the goods or services sold and intended to be sold under Registrant's Mark including, without limitation, the level of care exercised by such an

ordinary purchaser in purchasing the goods or services sold under Registrant's Mark.

Response:

Registrant sells its products directly to wholesalers, distributors, grocery stores, supermarkets, ethnic stores and specialty food stores. The products' ultimate consumers, however, are the retail customers of those stores, who may range in education from children to recent émigrés to highly educated professionals. It is believed that the level of care that general consumers exercise, however, is not high, given the cost of the products.

Interrogatory No. 25:

Identify all documents relating to and set forth with specificity all facts regarding any instance where Registrant has notified anyone that any trademark or service mark used by that person or entity infringed Registrant's Mark and/or any mark of Registrant that includes the terms BABUSHKA'S or BABUSHKINO, and for each such instance provide a detailed description of any action taken thereafter.

Response:

Please see General Objection No. 9. Subject to, and without waiving that Objection, Gold Star responds as follows: On or about May 11, 2002, counsel for Gold Star sent a facsimile transmission to Natar Foods, Inc. ("Natar") demanding that Natar cease and desist from using the mark "Бабушкин Творог" for farmer cheese. To the best knowledge, information and belief of Gold Star, Natar has ceased using that mark applied to those goods. Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems

responsive to this Interrogatory.

Interrogatory No. 26:

Has Registrant ever been a party to any litigation or administrative proceeding, other than the present cancellation proceeding involving Registrant's Mark? If so, state all circumstances surrounding same including, without limitation, the name of the parties and identification of the proceeding, Registrant's status therein, the mark or marks involved, the type of proceeding involved, the name of the court or agency in which it was filed, the date of the filing and the file number, the ultimate disposition of the proceedings, and identify each document relating to such proceeding.

Response:

No.

Interrogatory No. 27:

For purposes of establishing priority of use, identify the earliest date upon which Registrant intends to rely in this proceeding with respect to its use of Registrant's Mark and/or any mark that includes the terms BABUSHKA or BABUSHKINO, and produce all documents relating to such use(s).

Response:

Shortly after April 7, 1998. Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request

Interrogatory No. 28:

Describe the meaning and derivation of the phrase BABUSHKA'S RECIPE as used in connection with the goods of Registrant upon or in connection with which Registrant has used that phrase.

Response:

The phrase "BABUSHKA'S RECIPE" means "grandmother's recipe. It has no meaning in connection with the goods of Registrant upon or in connection with which Registrant has used it.

Interrogatory No. 29:

State the approximate percentage of sales of products bearing Registrant's Mark via the Internet versus other sales channels, and identify documents sufficient to support your response to this Interrogatory.

Response:

Please see General Objection No. 2. Subject to that Objection, and without waiving that Objection, Registrant makes no sales over the Internet.

Interrogatory No. 30:

Identify all experts employed by Registrant for purposes of this action. For each expert, identify his or her field of specialization, whether Registrant intends to call him or her as a witness, the subject matter on which he or she is expected to testify, the bases for each

opinion, and identify all documents that relate in any way to the subject matter, facts, and/or circumstances as to which the expert is expected to testify.

Response:

Registrant has not as yet retained any expert.

Interrogatory No. 31:

Identify each non-expert witness that Registrant expects to testify, the subject matter on which the witness is expected to testify, each fact and/or opinion to which the witness is expected to testify, the bases for each opinion and identify all documents that relate in any way to the subject matter, facts, and/or circumstances as to which the witness is expected to testify.

Response:

Registrant has not yet identified all of the witnesses it intends to call, nor the exact subject matter of the testimony on which any witness will testify.

Interrogatory No. 32:


Identify each person who participated in or supplied information used in answering any of the above interrogatories; beside the name of each such person, state the number of the interrogatory answer(s) with respect to which the person participated in or supplied information.

Response:

Galina Pincow, all Interrogatories.

Signed as to Objections
COHEN, PONTANI, LIEBERMAN & PAVANE

By


Roger S. Thompson
551 Fifth Avenue
New York, New York 10176
(212) 687-2770

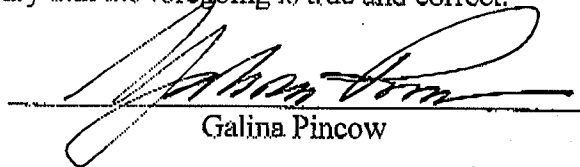
Dated: May 21, 2007

*Attorneys for Registrant,
International Gold Star Trading Corp.*

DECLARATION OF GALINA PINCOW

Galina Pincow declares that she has been authorized by International Gold Star Trading Corp. to make the within Registrant's Responses to Petitioner's Interrogatories and knows the contents thereof, and that to the best of her knowledge, information and belief, after a review of corporate records and a reasonable inquiry, they are true.

I declare under penalty of perjury that the foregoing is true and correct.



Galina Pincow

Executed On May 21, 2007

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing Registrant's Responses to Petitioner's Interrogatories, was served by first class mail, postage prepaid, on counsel for Petitioner, addressed as follows:

Samuel Friedman, Esq.
225 Broadway, Suite 1804
New York, New York 10007



Roger S. Thompson
Counsel for Registrant

May 21, 2007
Date

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TRADING CORP.,	:	
	:	
Registrant.	:	
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REGISTRANT'S RESPONSES TO PETITIONER'S REQUESTS FOR PRODUCTION

Registrant, International Gold Star Trading Corp., hereby responds to the Requests for Production of Documents propounded by Petitioner, Four Seasons Dairy, Inc.

General Objections

1. Registrant objects to the Requests to the extent that they seek the production of documents and/or things subject to a claim of attorney-client privilege, attorney work product or any other immunity from discovery. Any such documents and/or things will not be produced.

2. Registrant objects to the Requests to the extent that they seek the production of documents and/or things that contain confidential information of Registrant, and shall produce such documents and/or things only in accordance with a Protective Order.

3. Registrant objects to the Requests to the extent that they impose obligations beyond the scope of discovery permissible under the Federal Rules of Civil Procedure, Title 37 of the Code of Federal Regulations, the TBMP or other applicable authority.

4. Registrant objects to the Requests to the extent that they seek production of attorney-client privileged and/or attorney work product documents and/or things and/or information concerning same, which documents, things and/or information concern the conduct of this proceeding and were created after the filing of the Petition herein.

5. Registrant objects to the Requests to the extent that they seek the production of documents and/or things not within Registrant's possession, custody or control.

6. Registrant objects to the Requests to the extent that they seek the production of documents and/or things, and/or information not relevant to this action and/or not reasonably calculated to lead to the discovery of admissible evidence herein.

7. Registrant's responses are not admissions that the requested information is relevant, material or admissible and are not waivers of any rights or objections available to Registrant.

8. Registrant objects to the Requests to the extent that they seek production of entire documents that contain both relevant and irrelevant information and/or both information that is requested and information that is not requested and/or both information that is immune from discovery and information that is not so immune.

9. Registrant objects to the Requests to the extent that they contain a phrase such as "[a]ll documents" or the like as being overly broad and unduly burdensome to the extent that they include, for example, documents which, although containing passing reference to identified subject matter, would not ordinarily be expected to contain such information and therefore could be found only through an unreasonably burdensome search.

10. Registrant objects to the Requests to the extent that they are duplicative, overlapping or otherwise redundant as to subject matter of any other Request.

11. Registrant's responses are based upon its present knowledge, information and belief and are subject to correction, modification and/or supplementation based upon later-acquired facts or other information.

12. Registrant's responses indicating that documents and/or things will be produced in response to a specific Request are not representations or admissions that such documents and/or things are within the possession, custody or control of Registrant or that such documents and/or things exist. Instead, such responses indicate only that should any such documents and/or things be found within the possession, custody or control of Registrant after a reasonable search, they will be produced, subject to any applicable objections.

13. Any objection based upon a claim of attorney-client privilege, attorney work product or any other immunity from discovery is not a representation or admission that there are such requested documents and/or things are within the possession, custody or control of Registrant or that such documents and/or things exist. Such an objection indicates only that the scope of the Request may extend to information, documents and/or things not subject to discovery for one or more of these reasons and that, should such information, documents and/or things be found within the possession, custody or control of Registrant after a reasonable search, they will not be provided.

14. Registrant objects to the provision of information, documents and/or things that would violate any duty or obligation that Registrant has to a nonparty to this action.

These objections apply to all of Registrant's responses. Specific objections are made in response to a specific Request only because they are believed to be particularly applicable to the Request. They are not to be construed as waivers of any other General Objection not specifically recited therein.

REQUESTS FOR PRODUCTION

Request No. 1:

Produce all documents which record, refer to, or relate to the organization, incorporation, structure, operation and activities of Registrant insofar as they relate to any products sold and/or services offered by and/or intended to be sold, offered or promoted by Registrant under Registrant's Mark.

Response:

Please see General Objection Nos. 2, 3, 7 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 2:

Produce all documents which record, refer to, or relate to any licenses, assignments, agreements, contracts, and/or arrangements between Registrant and any third party which relate in any manner to Registrant's Mark and/or any mark that includes the terms BABUSHKA or BABUSHKINO.

Response:

Please see General Objection Nos. 2, 6, 9 and 14. In addition, Registrant objects to this request as vague and indefinite, since the term "arrangements" is not defined and is not understood. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and

time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 3:

Produce all documents which record, refer to, or relate to Registrant's use of the BABUSHKA'S RECIPE designation, including Registrant's investigation of Registrant's Mark for its availability for adoption and registration, its licensing, use, intended use, exploitation, and/or intended exploitation.

Response:

Please see General Objection Nos. 1, 2 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 4:

Produce all documents which record, refer to, or relate to Registrant's use of the terms BABUSHKA or BABUSHKINO in connection with any goods and/or services.

Response:

Please see General Objection Nos. 2 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 5:

Produce all documents which record, refer to, or relate in any manner to the subject matter of this cancellation proceeding.

Response:

Please see General Objection Nos. 2, 4 and 9. In addition, Registrant objects to this request as vague and indefinite, since the term "the subject matter of this cancellation proceeding" is not defined. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 6:

Produce all documents which record, refer to, or relate to goods and/or services which are or are to be provided under Registrant's Mark.

Response:

Please see General Objection Nos. 2, 5 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 7:

Produce all documents which record, refer to, or relate to Registrant's advertising, intended advertising, promotion, and/or intended promotion of any goods and/or services under Registrant's Mark.

Response:

Please see General Objection Nos. 2 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 8:

Produce all documents which record, refer to, or relate to Registrant's sales or intended sales of any goods and/or services under Registrant's Mark.

Response:

Please see General Objection Nos. 1, 2 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 9:

Produce all documents which record, refer to, or relate to the selection, design, adoption, proposed use of, decision to use, and first use of Registrant's Mark and/or any mark including the terms BABUSHKA or BABUSHKINO, including samples of any

names, designations and/or other marks considered and rejected.

Response:

Please see General Objection Nos. 1, 2 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 10:

Produce all documents which record, refer to, or relate to any searches, investigations, studies, analyses, or inquiries conducted by or on behalf of Registrant, or by any person acting for or on its behalf, regarding the availability and/or registrability of Registrant's Mark, or of the terms BABUSHKA or BABUSHKINO.

Response:

Please see General Objection Nos. 1, 2 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 11:

Produce all documents which refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution of any applications for registration, state or federal, of marks incorporating the terms BABUSHKA or BABUSHKH by Registrant including,

without limitation, U.S. Trademark Registration No. 2,479,287.

Response:

Please see General Objection Nos. 1, 2, 4 and 9. In addition, the file histories of all of Registrant's marks are a matter of public record and may be acquired by Petitioner without imposing the costs thereof upon Registrant. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 12:

Produce all documents which record, refer to, or relate to Registrant's consideration or decision to select, adopt and/or use Registrant's Mark and/or any designation including the terms BABUSHKA or BABUSHKINO in each different logotype, design, hang tag, packaging, font of type or style in which said designation is being used, or is intended to be used, by or on behalf of Registrant.

Response:

Please see General Objection Nos. 1, 2 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 13:

Produce a sample of each different logotype, design, hang tag, packaging, font of type or style in which Registrant's Mark and/or any designation including the terms BABUSHKA or BABUSHKINO is being used, or is intended to be used, by or on behalf of Registrant.

Response:

Please see General Objection No. 2. Subject to that Objection, and without waiving that Objection, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 14:

Produce a sample of each and every different advertisement, intended advertisement, item of promotional material and/or intended item of promotional material printed and/or disseminated by or for Registrant in which Registrant's Mark appears and/or any designation that includes the terms BABUSHKA or BABUSHKINO.

Response:

Please see General Objection No. 2. Subject to that Objection, and without waiving that Objection, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 15:

Produce a sample of each Product which is being used or is intended to be used by Registrant in which Registrant's Mark appears

Response:

Please see General Objection Nos. 2 and 3. In addition, it is noted that many of the products sold by registrant under the subject mark are perishable. Furthermore, Registrant objects to any suggestion it is obligated to turn over several hundreds' of dollar worth of food to Petitioner without compensation. petitioner can simply buy whatever samples it wishes of Registrant's products as they are generally available . Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 16:

Produce copies of all television commercials, press releases, radio scripts and other media advertising not previously requested herein, prepared by or for Registrant whether or not released or aired, in which Registrant's Mark appears.

Response:

None.

Request No. 17:

Produce all documents which record, refer to, or relate to Registrant's advertising and/or promotional expenditures, or expected advertising and/or promotional expenditures,

for any goods offered for sale, sold and/or distributed under Registrant's Mark including, without limitation, the advertising medium, the dates of any such advertisements or promotions, and the cost associated with such advertisements and/or promotions.

Response:

Please see General Objection Nos. 2 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 18:

Produce all documents which record, refer to, or relate to the amount of sales (actual and/or projected) by calendar quarter of goods sold by or for Registrant under Registrant's Mark including, without limitation, the identification of the goods or services, the number of units and/or services sold, the dates of the sales, and the dollar value of the sales.

Response:

Please see General Objection Nos. 2 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 19:

Produce all documents which record, refer to, or relate to any communication, oral or

written, received by Registrant from any person which suggests, implies, or infers any connection or association between Petitioner, and Registrant, or which inquires as to whether there is or may be such a connection or association, based upon Registrant's and/or Petitioner's and/or their licensees' or sublicensees' use of their respective marks and/or any designation that includes the terms BABUSHKA or BABUSHKINO.

Response:

No responsive document is known.

Request No. 20:

Produce all documents which record, refer to, or relate to any instance or occurrence of likelihood of confusion and/or actual confusion on the part of any person between Registrant's use of the Mark and Petitioner's Mark.

Response:

No such instance or occurrence is known.

Request No. 21:

Produce all documents which record, refer to, or relate to Registrant's knowledge and/or awareness of the use and/or application for registration of Petitioner's Mark by Petitioner.

Response:

Please see General Objection Nos. 4 and 9. In addition, this Request is vague. Subject

to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 22:

Produce all documents which record, refer to, or relate to any inquiry, investigation, evaluation, analysis, or survey conducted by Registrant or any person acting for or on behalf of Registrant regarding any issues involved in this proceeding.

Response:

Please see General Objection Nos. 1, 2, 4, 6 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 23:

Produce all documents which record, refer to, or which constitute any research, reports, surveys, or studies conducted by or on behalf of Registrant of consumer or customer perception of Registrant's Mark.

Response:

None.

Request No. 24:

Produce all documents in Registrant's possession or control that refer or relate to Petitioner or Petitioner's Marks.

Response:

Please see General Objection Nos. 1, 2, 4 and 9. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 25:

Produce all press releases, articles and clippings relating to or commenting on goods or services marketed or sold under Registrant's Mark.

Response:

No responsive document is known at this time.

Request No. 26:

Produce documents sufficient to identify all goods and/or services in connection with which Registrant uses and/or intends to use Registrant's Mark and/or any designation that includes the terms BABUSHKA or BABUSHKINO

Response:

Please see General Objection Nos. 2 and 9. In addition, it is noted that the file histories of Registrant's relevant trademark applications fall within the scope of this request, and

those file histories are equally available to Petitioner. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 27:

Produce a copy of any statements and/or opinions of any expert obtained by Registrant or any person acting for or on behalf of Registrant regarding any of the issues in this cancellation proceeding.

Response:

Please see General Objection Nos. 1, 2 and 4. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 28:

Produce a copy of all documents, other than those produced to any of the foregoing requests, upon which Registrant intends to rely in connection with this cancellation proceeding.

Response:

Please see General Objection Nos. 1 and 4. In addition, registrant has not completed its determination of what documents will be relied upon in connection with this cancellation

proceeding, and that determination may not be made until the end of Petitioner's testimony period. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Request No. 29

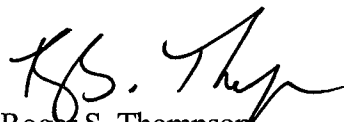
Produce all documents identified in response to Petitioner's First Set of Interrogatories to Registrant, not produced in response to the above requests.

Response:

Please see General Objection Nos. 2 and 9. In addition, please see any objections made to specific Interrogatories. Subject to those Objections, and without waiving any of those Objections, Registrant will make available for inspection and copying on a mutually agreeable date and time those non-privileged documents within its possession, custody or control it deems responsive to this Request.

Respectfully submitted,
COHEN, PONTANI, LIEBERMAN & PAVANE

By


Roger S. Thompson
551 Fifth Avenue
New York, New York 10176
(212) 687-2770

Dated: May 21, 2007

*Attorneys for Registrant,
International Gold Star Trading Corp.*

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing Registrant's Responses to Petitioner's Requests for Production, was served by first class mail, postage prepaid, on counsel for Petitioner, addressed as follows:

Samuel Friedman, Esq.
225 Broadway, Suite 1804
New York, New York 10007



Roger S. Thompson
Counsel for Registrant

May 21, 2007
Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X	:	
FOUR SEASONS DAIRY, INC.,	:	Cancellation No. 92/042,082
	:	
Petitioner,	:	
	:	Mark: BABUSHKA'S RECIPE
v.	:	
	:	Reg. No. 2,479,287
INTERNATIONAL GOLD STAR	:	
TRADING CORP.,	:	
	:	
Registrant.	:	
-----X	:	

REGISTRANT'S RESPONSES TO PETITIONER'S REQUESTS FOR ADMISSIONS

Registrant, International Gold Star Trading Corp. hereby responds to the Requests for Admissions propounded by the Petitioner, Four Seasons Dairy, Inc.

REQUESTS FOR ADMISSION

1. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "diary products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 2001 to the present.

Response:

Denied.

2. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 2000 to the present.

Response:

Denied.

3. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1999 to the present.

Response:

Denied.

4. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1998 to the present.

Response:

Denied.

5. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1997 to the present.

Response:

Denied.

6. Registrant failed to use the "BABUSHKA'S RECIPE" mark on or in connection with "dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables" for three consecutive years during the period 1996 to the present.

Response:

Denied.

7. Registrant failed to use the “БАБУШКИНО” mark on or in connection with “dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables” for three consecutive years during the period 2001 to the present.

Response:

Admitted. However, it is noted that Registrant has used the mark “БАБУШКИН” during the relevant time period, which mark is identical to the Russian word “БАБУШКИНО” used by Petitioner, but for the last letter “О”, and the mark “БАБУШКИНО” used by Petitioner is confusingly similar to the mark “БАБУШКИН” used by Registrant.

8. Registrant failed to use the “БАБУШКИНО” mark on or in connection with “dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables” for three consecutive years during the period 2000 to the present.

Response:

Please see Response to Request No. 7.

9. Registrant failed to use the “БАБУШКИНО” mark on or in connection with “dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables” for three consecutive years during the period 1999 to the present.

Response:

Please see Response to Request No. 7.

10. Registrant failed to use the “БАБУШКИНО” mark on or in connection with

“dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables” for three consecutive years during the period 1998 to the present.

Response:

Please see Response to Request No. 7.

11. Registrant failed to use the “БАБУШКИНО” mark on or in connection with “dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables” for three consecutive years during the period 1997 to the present.

Response:

Please see Response to Request No. 7.

12. Registrant failed to use the “БАБУШКИНО” mark on or in connection with “dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables” for three consecutive years during the period 1996 to the present.

Response:

Please see Response to Request No. 7.

13. Registrant has never used the “БАБУШКИНО” mark on or in connection with “dairy products excluding ice cream, ice milk and frozen yogurt processed and marinated vegetables”.

Response:

Please see Response to Request No. 7.

14. Registrant has never used the “БАБУШКИНО” mark on or in connection with

goods that are related to Dairy products.

Response:

Please see Response to Request No. 7.

15. Registrant has never used the “БАБУШКИНО” mark on or in connection with goods in Class 29.

Response:

Please see Response to Request No. 7.

16. Registrant has never used the “BABUSHKA’S RECIPE” mark on or in connection with vegetable oil spread.

Response:

Admitted.

17. Registrant has never used the “BABUSHKA’S RECIPE” mark on or in connection with vegetable extracts.

Response:

Admitted.

18. Registrant has never used the “BABUSHKA’S RECIPE” mark on or in connection with butter.

Response:

Denied.

19. Registrant has never used the "BABUSHKA'S RECIPE" mark on or in connection with cottage cheese.

Response:

Denied.

20. Registrant has never used the "BABUSHKA'S RECIPE" mark on or in connection with yogurt.

Response:

Admitted as to yogurt, but Registrant has used the mark on or in connection with yogurt cheese.

21. Registrant never used the "BABUSHKA'S RECIPE" mark in 1998.

Response:

Denied.

22. Registrant never used the "BABUSHKA'S RECIPE" mark in 1997.

Response:

Admitted.

23. Registrant never used the "BABUSHKA'S RECIPE" mark in 1996.

Response:

Admitted.

24. Registrant has never objected to Petitioner's use of the mark БАБУШКИНО in

connection with Dairy products.

Response:

Denied.

25. Registrant has never objected to Petitioner's use of the word БАБУШКИНО in connection with vegetable oil spread.

Response:

Denied.

26. Registrant has never objected to Petitioner's use of the word БАБУШКИНО in connection with vegetable extracts.

Response:

Denied.

27. Registrant has never objected to Petitioner's use of the word БАБУШКИНО in connection with margarine.

Response:

Denied.

28. Registrant has never opposed Petitioner's application to register БАБУШКИНО as a U.S. Trademark.

Response:

Admitted, however that application has not been allowed, and so no opposition is necessary or possible.

29. Registrant is not currently making use in commerce (as defined in 15 U.S.C. § 1127) of the mark БАБУШКИНО.

Response:

Please see response to Request No. 7.

30. Registrant is not currently making use in commerce (as defined in 15 U.S.C. § 1127) of the mark BABUSHKINO.

Response:

Please see response to Request No. 7.

31. Registrant has not controlled the nature or quality of the БАБУШКИНО Products sold by its licensees.

Response:

Denied. Registrant has no licensees. *See*, also Response to Request No. 7.

32. Registrant has permitted others to use trademarks including the term БАБУШКИНО without controlling the nature or quality of the goods sold under such marks.

Response:

Denied.

33. Registrant has not objected to the use or registration of the mark BABUSHKINO by Petitioner for vegetable oil spread, vegetable extracts, margarine or dairy products.

Response:

Denied.

34. Registrant registered the mark BABUSHKA'S RECIPE without Petitioner's permission.

Response:

Admitted, but Registrant denies any implication that Petitioner's permission was required in any way for Registrant to register the subject mark.

35. Registrant has not objected to the application to register the mark BABUSHKINO by Petitioner for vegetable oil spread, vegetable extracts, margarine or dairy products.

Response:

Registrant can neither admit nor deny this Request since, to the best knowledge, information and belief of Registrant, Petitioner has never applied to register the mark "BABUSHKINO" for any products. Registrant is aware that Petitioner has sought to register the alleged mark "БАБУШКИНО" which is the Cyrillic equivalent of "BABUSHKINO", but to the best knowledge, information and belief of Registrant that application, Ser. No. 76/174,746, has not been allowed, and so is not subject to opposition as yet.

36. Registrant has not objected to the use of the mark BABUSHKINO by Petitioner for vegetable oil spread, vegetable extracts, margarine or dairy products.

Response:

Denied.

37. Registrant is using the mark BABUSHKA'S RECIPE for vegetable oil spread, vegetable extracts, margarine or dairy products without Petitioner's permission.

Response:

Admitted, but Registrant denies any implication that Petitioner's permission was required in any way for Registrant to use the subject mark.

38. Registrant has not objected to any use of the mark БАБУШКИНО by Petitioner.

Response:

Denied.


39. Registrant has had knowledge since at least 1999 of Petitioner's use of the mark БАБУШКИНО for vegetable oil spread, vegetable extracts, margarine or dairy products.

Response:

Denied.

Respectfully submitted,
COHEN, PONTANI, LIEBERMAN & PAVANE

By


Roger S. Thompson
551 Fifth Avenue
New York, New York 10176
(212) 687-2770

Dated: May 21, 2007

*Attorneys for Registrant,
International Gold Star Trading Corp.*

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing Registrant's Responses to Petitioner's Requests for Admissions, was served by first class mail, postage prepaid, on counsel for Petitioner, addressed as follows:

Samuel Friedman, Esq.
225 Broadway, Suite 1804
New York, New York 10007



Roger S. Thompson
Counsel for Registrant

May 21, 2007
Date